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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,269	06/25/2003	Efraim Garti	WOLFF P-26	4485
30294	7590	03/01/2007	EXAMINER	
LACKENBACH SIEGEL ONE CHASE ROAD SCARSDALE, NY 10583			KIM, SUN U	
			ART UNIT	PAPER NUMBER
			1723	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/01/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/603,269

Applicant(s)

GARTI, EFRAIM

Examiner

John Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 28-38 is/are pending in the application.
- 4a) Of the above claim(s) \_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/17/07 has been entered.

2. Claims 28 and 36-37 are objected to because of the following informalities: "said recess" on line 7 of claim 28 should be corrected to "said recessed circumferential strip". Claim 36 ends with two periods. "said opening" and "said elastic band" on line 2 of claim 37 should be corrected to "said opening of said rim" and "said substantially flat, stretchable band" respectively. Appropriate correction is required.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28 and 32-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed, Sr. (U.S. Patent No. 5,238,585) in view of Cox et al. (U.S. Patent No. 6,419,839 B1).

Regarding Claim 28, Reed, Sr. discloses in a spa cleaning apparatus including a framework having a base (22) provided with a liquid opening, framework members (42) projecting from the base (22) and a recessed circumferential strip (54) comprising: a disposable filtering bag (58) provided with an opening defined by a rim, the bag having filtering perforations, and a stretchable band (56) made of neoprene affixed to and extending along and within the rim of the opening facilitating the easy attachment and detachment of the bag on the

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framework (see figure 2; col. 2, line 36 – col. 3, line 38). However, Reed, Sr. does not disclose that the bag is made of a non-woven synthetic material. Cox et al teach a non-woven, synthetic, spa filter media and can be made in a form of filter bags (see Col. 2, Lines 1-31, 57-64; col. 9, lines 1-27). It would have been obvious to one of ordinary skill in the art to modify the filter bag of Reed, Sr. with the filter bag made of non-woven, synthetic material in order to be able to remove dirt, debris, oils, and microorganisms from spa pool as suggested by Cox et al (see Col. 3, Lines 21-26).

Regarding Claim 32, Cox et al disclose that the filter is made of polypropylene (Col. 9, Lines 1-27) having a weight of about 30 to about 400 g/m<sup>2</sup> (see Col. 4, Lines 53-56) which includes claimed weight about 51.2 g/m<sup>2</sup>.

Regarding Claim 33, the shape of the band has no mechanical function and cannot be relied upon to patentably distinguish the claimed invention from the prior art. In re Seid, 73 USPQ 431 (1947). The elastic band of Reed, Sr. is deemed to be a structure equivalent to the stretchable band of the invention.

Regarding Claims 34 and 36-37, Reed, Sr. discloses that the filter in its assembled state is slipped over the framework with a stretchable opening tightly surrounding and clinging to a recessed strip (54) by the band (56) which is uniformly continuous and free of ends in an inherent sleeve (see Fig. 2; col. 3, lines 8-18).

Regarding claim 35, Reed, Sr. discloses the claimed invention except for two substantially rectangular framework members disposed substantially parallel to each other supported by a base. It would have been an obvious matter of design choice to provide two substantially rectangular framework members disposed substantially parallel to each other

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supported by a base, since applicant has not disclosed that having two framework members disposed substantially parallel to each other supported by a base solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other framework members supported by a base such as cylindrical framework (42) as shown in figure 2 of Reed, Sr.

Regarding claim 38, Reed, Sr. discloses the claimed invention except for a unitary framework. It would have been obvious to one having ordinary skill in the art at the time the invention was made to integrate framework of base (22) and framework members (42) to form a unitary member, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reed, Sr. in view of Cox et al as applied to Claim 28 above, and further in view of Tafara (U.S. Patent No. 4,545,833).

Regarding Claim 29, Reed, Sr. in view of Cox et al does not disclose the size of the filter perforations. Tafara teaches a filter bag with micron ratings from 0.2 to 1600 (see Col. 5, Lines 3-9). One of skill in the art would by routine experimentation find the optimum filter perforation size of between 70 to 80 microns for removing dirt, debris, oil and microorganisms. It is not inventive to discover the optimum or workable ranges by routine experimentation when the general conditions of a claim are disclosed in the prior art. *In re Aller*, 105 USPQ 233, 235 (CCPA 1955).

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6. Claims 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed, Sr. in view of Cox et al as applied to Claim 28 above, and further in view of Emig et al (U.S. Patent No. 6,706,086).

Regarding Claim 30, Reed, Sr. in view of Cox et al does not disclose the air permeability. Emig et al teach a vacuum filter bag having air permeability of 1,500 to 20,000 L/m<sup>2</sup>xs (Col. 6, Lines 35-41). One of skill in the art would by routine experimentation find the optimum air permeability to remove dirt, debris, oil and microorganisms. It would have been obvious to one of skill in the art to make the air permeability of Reed, Sr. in view of Cox et al as so desired or required, including as claimed to optimize filtration to remove dirt, debris, oil and microorganisms.

Regarding Claim 31, Reed, Sr. in view of Cox et al does not disclose stretching or bursting strength. Emig et al teach a vacuum filter bag comprising a material having a longitudinal stretching strength of 2 to 12 N per 15 mm strip and a transversal stretching strength of 1 to 10 N per 15 mm strip (Col. 6, Lines 25-34), and a bursting strength of at least 70 kPa (Col. 2, Lines 10-15). One of skill in the art would by routine experimentation find the optimum stretching and bursting strengths for its use in spa pool filter application. It would have been obvious to one of skill in the art to make the stretching and bursting strengths of Reed, Sr. in view of Cox et al as so desired or required, including as claimed to optimize filtration for spa pool filter application.

Applicant's arguments with respect to claims 28-38 have been considered but are moot in view of the new ground(s) of rejection. Reed, Sr. in view of Cox et al, Tafara and Emig et al teach the claimed swimming pool cleaning apparatus. Applicant argues that new claim 28 calls

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for a unitary framework. However, claim 38 calls for the unitary framework and not claim 28.

Applicant argues that Tafara is noted to have a sealed member folded over a rigid housing.

However, Tafara reference is applied to show known size of filter perforations. Applicant argues that Cox et al does neither teach nor suggest a non-woven, synthetic material having filtering perforations. However, Cox et al teach non-woven porous filter media made of synthetic material (see col. 2, lines 6-31; col. 7, lines 1-30).

In response to applicant's argument that Tafara or Emig et al is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Tafara and Emig et al both teach a filter bag wherein primary reference, Reed, Sr. teaches a filter bag (58).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References in PTO-892 teaches various filter bags with or without having elastic band known in the art.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is 571-272-1142. The examiner can normally be reached on Monday-Friday 7 a.m. - 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**John Kim**  
**Primary Examiner**  
**Art Unit 1723**

JK  
2/27/07